

The EPA Administrator signed the following proposed rule on July 25, 2002. It is being submitted for publication in the *Federal Register*. While EPA has taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of public comment. Please refer to the official version in a forthcoming *Federal Register* publication and on GPO's Web Site. The rule will likely be published in the *Federal Register* in August 2002. You can access the *Federal Register* at: http://www.access.gpo.gov/su_docs/aces/aces140.html. When using this site, note that "text" files may be incomplete because they don't include graphics. Instead, select "Adobe Portable Document File" (PDF) files.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 86 CONTROL OF EMISSIONS FROM NEW AND IN-USE HIGHWAY VEHICLES AND ENGINES [AMENDED]

1. The authority citation for part 86 continues to read as follows:
Authority: 42 U.S.C. 7401 - 7521(l) and 7521(m) - 7671q.

Subpart E [Amended]

2. A new §86.401-2006 is added to subpart E to read as follows:

§86.401-2006 General applicability.

This subpart applies to 1978 and later model year, new, gasoline-fueled motorcycles built after 31 December, 1977, and to 1990 and later model year, new methanol-fueled motorcycles built after 31 December, 1989 and to 1997 and later model year, new natural gas-fueled and liquefied petroleum gas-fueled motorcycles built after 31 December, 1996 and to 2006 and later model year new motorcycles, regardless of fuel.

3. Section 86.402-78 is amended by adding a definition for "Motor vehicle" in alphabetical order to read as follows:

§86.402-78 Definitions.

* * * * *

Motor vehicle has the meaning we give in 40 CFR 85.1703.

* * * * *

4. A new §86.410-2006 is added to subpart E to read as follows:

§86.410-2006 Emission standards for 2006 and later model year motorcycles.

(a) (1) Exhaust emissions from Class I and Class II motorcycles shall not exceed the standards listed in the following table:

Model Year	Emission standards (g/km)	
	HC	CO
2006 and later	1.0	12.0

(2) Exhaust emissions from Class III motorcycles shall not exceed the standards listed in the following table:

Tier	Model Year	Emission standards (g/km)	
		HC+NO _x	CO
Tier 1	2006-2009	1.4	12.0
Tier 2	2010 and later	0.8	12.0

- (b) The standards set forth in paragraphs (a) (1) and (2) of this section refer to the exhaust emitted over the driving schedule as set forth in subpart F and measured and calculated in accordance with those procedures.
- (c) Compliance with the HC+NO_x standards set forth in paragraph (a)(2) of this section may be demonstrated using the averaging provisions of §86.449.
- (d) No crankcase emissions shall be discharged into the ambient atmosphere from any new motorcycle subject to this subpart.
- (e) Manufacturers with fewer than 500 employees and producing fewer than 3000 motorcycles per year are considered small-volume manufacturers for the purposes of this section. The following provisions apply for these small-volume manufacturers:
- (1) Small-volume manufacturers are not required to comply with the Tier 1 standards until model year 2008.
 - (2) Small-volume manufacturers are not required to comply with the Tier 2 standards.

5. A new §86.419-2006 is added to subpart E to read as follows:

§86.419-2006 Engine displacement, motorcycle classes.

- (a) (1) Engine displacement shall be calculated using nominal engine values and rounded to the nearest whole cubic centimeter, in accordance with ASTM E 29-67 (incorporated by reference in §86.1).
- (2) For rotary engines, displacement means the maximum volume of a combustion chamber between two rotor tip seals, minus the minimum volume of the combustion chamber between those two rotor tip seals, times three times the number of rotors, according to the following formula:

$$cc = (\text{max. chamber volume} - \text{min. chamber volume}) \times 3 \times \text{no. of rotors}$$

- (b) Motorcycles will be divided into classes based on engine displacement.
- (1) Class I -- 0 to 169 cc (0 to 10.4 cu. in.).
 - (2) Class II--170 to 279 cc (10.4 to 17.1 cu. in.).
 - (3) Class III -- 280 cc and over (17.1 cu. in. and over).
- (c) At the manufacturer's option, a vehicle described in an application for certification may be placed in a higher class (larger displacement). All procedures for the higher class must then be complied with, compliance with emission standards will be determined on the basis of engine displacement.

6. A new §86.445-2006 is added to subpart E to read as follows:

§86.445-2006 What temporary provisions address hardship due to unusual circumstances?

- (a) After considering the circumstances, we may permit you to introduce into commerce highway motorcycles that do not comply with emission standards if all the following conditions and requirements apply:
- (1) Unusual circumstances that are clearly outside your control and that could not have been avoided with reasonable discretion prevent you from meeting requirements from this chapter.
 - (2) You exercised prudent planning and were not able to avoid the violation; you have taken all reasonable steps to minimize the extent of the nonconformity.

- (3) Not having the exemption will jeopardize the solvency of your company.
- (4) No other allowances are available under the regulations to avoid the impending violation.
- (b) To apply for an exemption, you must send the Designated Officer a written request as soon as possible before you are in violation. In your request, show that you meet all the conditions and requirements in paragraph (a) of this section.
- (c) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.
- (d) You must give us other relevant information if we ask for it.
- (e) We may include reasonable additional conditions on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit or paying fees to offset any economic gain resulting from the exemption. For example, we may require that you meet standards less stringent than those that currently apply.

7. A new §86.446-2006 is added to subpart E to read as follows:

§86.446-2006 What are the provisions for extending compliance deadlines for small-volume manufacturers under hardship?

- (a) After considering the circumstances, we may extend the compliance deadline for you to meet new or revised emission standards, as long as you meet all the conditions and requirements in this section.
- (b) To be eligible for this exemption, you must qualify as a small-volume manufacturer under §86.410-2006(e).
- (c) To apply for an extension, you must send the Designated Officer a written request. In your request, show that all the following conditions and requirements apply:
 - (1) You have taken all possible business, technical, and economic steps to comply.
 - (i) In the case of importers, show that you are unable to find a manufacturer capable of supplying complying products.
 - (ii) For all other manufacturers, show that the burden of compliance costs prevents you from meeting the requirements of this chapter.
 - (2) Not having the exemption will jeopardize the solvency of your company.
 - (3) No other allowances are available under the regulations to avoid the impending violation.
- (d) In describing the steps you have taken to comply under paragraph (c)(1) of this section, include at least the following information:
 - (1) Describe your business plan, showing the range of projects active or under consideration.
 - (2) Describe your current and projected financial standing, with and without the burden of complying with regulations.
 - (3) Describe your efforts to raise capital to comply with regulations.
 - (4) Identify the engineering and technical steps you have taken or plan to take to comply with regulations.
 - (5) Identify the level of compliance you can achieve. For example, you may be able to produce engines that meet a somewhat less stringent emission standard than the regulations require.
- (e) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.
- (f) You must give us other relevant information if we ask for it.
- (g) An authorized representative of your company must sign the request and include the statement: "All the information in this request is true and accurate, to the best of my knowledge."
- (h) Send your request for this extension at least nine months before new standards apply. Do not send your request before the regulations in question apply to other manufacturers.
- (i) We may include reasonable requirements on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit. For example, we may require that you meet a less stringent emission standard or buy and use available emission credits.
- (j) We will approve extensions of up to one year. We may review and revise an extension as reasonable under the circumstances.

8. A new §86.447-2006 is added to subpart E to read as follows:

§86.447-2006 What are the provisions for exempting motorcycles under 50 cc from the requirements of this part if they use engines you certify under other programs?

- (a) This section applies to you if you manufacture engines under 50 cc for installation in a highway motorcycle. See §86.448-2006 if you are not the engine manufacturer.
- (b) The only requirements or prohibitions from this part that apply to a motorcycle that is exempt under this section are in this section and §86.448-2006.
- (c) If you meet all the following criteria regarding your new engine, it is exempt under this section:
- (1) You must produce it under a valid certificate of conformity for one of the following types of engines or vehicles:
 - (i) Class II engines under 40 CFR part 90.
 - (ii) Recreational vehicles under 40 CFR part 1051.
 - (2) You must not make any changes to the certified engine that we could reasonably expect to increase its exhaust emissions. For example, if you make any of the following changes to one of these engines, you do not qualify for this exemption:
 - (i) Change any fuel system parameters from the certified configuration.
 - (ii) Change any other emission-related components.
 - (iii) Modify or design the engine cooling system so that temperatures or heat rejection rates are outside the original engine's specified ranges.
 - (3) You must make sure the engine has the emission label we require under 40 CFR part 90 or part 1051.
 - (4) You must make sure that fewer than 50 percent of the engine model's total sales, from all companies, are used in highway motorcycles.
- (d) If you produce only the engine, give motorcycle manufacturers any necessary instructions regarding what they may or may not change under paragraph (c)(2) of this section.
- (e) If you produce both the engine and motorcycle under this exemption, you must do all of the following to keep the exemption valid:
- (1) Make sure the original emission label is intact.
 - (2) Add a permanent supplemental label to the engine in a position where it will remain clearly visible after installation in the vehicle. In your engine's emission label, do the following:
 - (i) Include the heading: "Highway Motorcycle Emission Control Information".
 - (ii) Include your full corporate name and trademark.
 - (iii) State: "THIS ENGINE WAS ADAPTED FOR HIGHWAY USE WITHOUT AFFECTING ITS EMISSION CONTROLS."
 - (iv) State the date you finished installation (month and year).
 - (3) Send the Designated Officer a signed letter by the end of each calendar year (or less often if we tell you) with all the following information:
 - (i) Identify your full corporate name, address, and telephone number.
 - (ii) List the models you expect to produce under this exemption in the coming year.
 - (iii) State: "We produce each listed model as a highway motorcycle without making any changes that could increase its certified emission levels, as described in 40 CFR 86.447."
- (f) If your vehicles do not meet the criteria listed in paragraph (c) of this section, they will be subject to the standards and prohibitions of this part. Producing these vehicles without a valid exemption or certificate of conformity would violate the prohibitions in Clean Air Act section 203 (U.S.C. 7522).
- (g) If we request it, you must send us emission test data on the duty cycle for Class I motorcycles. You may include the data in your application for certification or in your letter requesting the exemption.
- (h) Vehicles exempted under this section are subject to all the requirements affecting engines and vehicles under 40 CFR part 90 or part 1051, as applicable. The requirements and restrictions of 40 CFR part 90 or 1051 apply to anyone manufacturing these engines, anyone manufacturing vehicles that use these engines, and all other persons in the same manner as if these engines were used in a nonroad application.

9. A new §86.448-2006 is added to subpart E to read as follows:

§86.448-2006 What are the provisions for producing motorcycles under 50 cc with engines already certified under other programs?

- (a) You may produce a highway motorcycle under 50 cc using a nonroad engine if you meet three criteria:
 - (1) The engine or vehicle is certified to 40 CFR part 90 or part 1051.
 - (2) The engine is not adjusted outside the manufacturer's specifications, as described in §86.447-2006(c)(2) and (d).
 - (3) The engine or vehicle is not modified in any way that may affect its emission control.
- (b) This section does not apply if you manufacture the engine yourself; see §86.447-2006

10. A new §86.449 is added to subpart E to read as follows:

§86.449 Averaging provisions.

- (a) Compliance with the HC+NOx standards set forth in §86.410-2006(a)(2) may be demonstrated using the averaging provisions of this section. To do this you must show that your average emission levels are at or below the applicable standards in §86.410-2006. Family emission limits (FELs) may not exceed 5.0 g/km
- (b) Do not include any exported vehicles in the certification averaging program. Include only motorcycles certified under this subpart.
- (c) To use the averaging program, do the following things:
 - (1) Certify each vehicle to a family emission limit.
 - (2) Calculate a preliminary average emission level according to paragraph (d) of this section using projected production volumes for your application for certification.
 - (3) After the end of your model year, calculate a final average emission level according to paragraph (d) of this section for each type of recreational vehicle or engine you manufacture or import. Use actual production volumes.
- (d) Calculate your average emission level for each type of recreational vehicle or engine for each model year according to the following equation and round it to the nearest tenth of a g/km. Use consistent units throughout the calculation.
 - (1) Calculate the average emission level as:

$$\text{Emission level} = \frac{\sum_i (\text{FEL})_i \times (\text{UL})_i \times (\text{Production})_i}{\sum_i (\text{Production})_i \times (\text{UL})_i}$$

Where:

FEL_i = The FEL to which the engine family is certified.

UL_i = The useful life of the engine family.

Production_i = The number of vehicles in the engine family.

- (2) Use production projections for initial certification, and actual production volumes to determine compliance at the end of the model year.
- (e)(1) Maintain and keep five types of properly organized and indexed records for each group and for each emission family:
 - (i) Model year and EPA emission family.
 - (ii) FEL.
 - (iii) Useful life.
 - (iv) Projected production volume for the model year.
 - (v) Actual production volume for the model year.
- (2) Keep paper records of this information for three years from the due date for the end-of-year report. You may use any additional storage formats or media if you like.
- (3) Follow paragraphs (f) through (i) of this section to send us the information you must keep.
- (4) We may ask you to keep or send other information necessary to implement this subpart.
- (f) Include the following information in your applications for certification:
 - (1) A statement that, to the best of your belief, you will not have a negative credit balance for any type of recreational vehicle or engine when all credits are calculated. This means that if you believe that your average emission level will be above the standard (i.e., that you will have a deficit for the model year), you must have

banked credits pursuant to paragraph (j) of this section to offset the deficit.

(2) Detailed calculations of projected emission credits (zero, positive, or negative) based on production projections. If you project a credit deficit, state the source of credits needed to offset the credit deficit.

(g) At the end of each model year, send an end-of-year report.

(1) Make sure your report includes three things:

(i) Calculate in detail your average emission level and any emission credits based on actual production volumes.

(ii) If your average emission level is above the allowable average standard, state the source of credits needed to offset the credit deficit.

(2) Base your production volumes on the point of first retail sale. This point is called the final product-purchase location.

(3) Send end-of-year reports to the Designated Officer within 120 days of the end of the model year. If you send reports later, you are violating the Clean Air Act.

(4) If you generate credits for banking pursuant to paragraph (j) of this section and you do not send your end-of-year reports within 120 days after the end of the model year, you may not use or trade the credits until we receive and review your reports. You may not use projected credits pending our review.

(5) You may correct errors discovered in your end-of-year report, including errors in calculating credits according to the following table:

If...	And if...	Then we...
(i) Our review discovers an error in your end-of-year report that increases your credit balance	the discovery occurs within 180 days of receipt	restore the credits for your use.
(ii) You discover an error in your report that increases your credit balance	the discovery occurs within 180 days of receipt	restore the credits for your use.
(iii) We or you discover an error in your report that increases your credit balance	the discovery occurs more than 180 days after receipt	do not restore the credits for your use.
(iv) We discover an error in your report that reduces your credit balance	at any time after receipt	reduce your credit balance

(h) Include in each report a statement certifying the accuracy and authenticity of its contents.

(i) We may void a certificate of conformity for any emission family if you do not keep the records this section requires or give us the information when we ask for it.

(j) You may include motorcycles that you certify with HC+NO_x emissions below 0.8 g/km in the following optional early banking program:

(1) To include a motorcycle in the early banking program, assign it an emission rate of 0.8 g/km when calculating your average emission level for compliance with the Tier 1 standards.

(2) (i) Calculate bankable credits from the following equation:

$$\text{Bonus credit} = Y \times [(0.8 \text{ g/km} - \text{Certified emission level})] \times [(\text{Production volume of engine family}) \times (\text{Useful life})]$$

(ii) The value of Y is defined by the model year and emission level, as shown in the following table:

Model Year	Multiplier (Y) for Use in MY 2010 or Later Corporate Averaging	
	If your certified emission level is less than 0.8 g/km, but greater than 0.4 g/km, then Y =...	If your certified emission level is less than 0.4 g/km, then Y =...
2003 through 2006	1.5	3.0
2007	1.375	2.5
2008	1.250	2.0
2009	1.125	1.5

(3) Credits banked under this paragraph (j) may be use for compliance with any 2010 or later model year standards as follows:

(i) If your average emission level is above the average standard, calculate your credit deficit according to the following equation, rounding to the nearest tenth of a gram:

$$\text{Deficit} = (\text{Emission Level} - \text{Average Standard}) \times (\text{Total Annual Production})$$

(ii) Credits deficits may be offset using banked credits.

Subpart F [Amended]

11. A new §86.513-2004 is added to subpart F to read as follows:

§86.513-2004 Fuel and engine lubricant specifications.

Section 86.513-2004 includes text that specifies requirements that differ from §86.513-94. Where a paragraph in §86.513-94 is identical and applicable to §86.513-2004, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see §86.513-94." Where a corresponding paragraph of §86.513-94 is not applicable, this is indicated by the statement "[Reserved]."

(a) Gasoline. (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing of gasoline-fueled motorcycles. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer for emission testing except that the octane specifications do not apply.

Table 1 of §86.513-2004 Gasoline Test Fuel Specifications

Item	Procedure	Value
Distillation Range:		
1. Initial boiling point, C	ASTM D 86-97	23.9 - 35.0 ¹
2. 10% point, C	ASTM D 86-97	48.9 - 57.2
3. 50% point, C	ASTM D 86-97	93.3 - 110.0
4. 90% point, C	ASTM D 86-97	148.9 - 162.8
5. End point, C	ASTM D 86-97	212.8
Hydrocarbon composition:		
1. Olefins, volume %	ASTM D 1319-98	10 maximum
2. Aromatics, volume %	ASTM D 1319-98	35 minimum
3. Saturates	ASTM D 1319-98	Remainder
Lead (organic), g/liter	ASTM D 3237	0.013 maximum
Phosphorous, g/liter	ASTM D 3231	0.005 maximum
Sulfur, weight %	ASTM D 1266	0.08 maximum
Volatility (Reid Vapor Pressure), kPa	ASTM D 3231	55.2 to 63.4 ¹

¹For testing at altitudes above 1 219 m, the specified volatility range is 52 to 55 kPa and the specified initial boiling point range is 23.9° to 40.6° C.

(2) Unleaded gasoline and engine lubricants representative of commercial fuels and engine lubricants which will be generally available through retail outlets shall be used in service accumulation.

(3) The octane rating of the gasoline used shall be no higher than 4.0 Research octane numbers above the minimum recommended by the manufacturer.

(4) The Reid Vapor Pressure of the gasoline used shall be characteristic of commercial gasoline fuel during the season in which the service accumulation takes place.

(b) through (d) [Reserved]. For guidance see §86.513-94.

12. Section 86.544-90 is amended by revising the introductory text to read as follows:

§86.544-90 Calculations; exhaust emissions.

The final reported test results, with oxides of nitrogen being optional for model years prior to 2006 and required for 2006 and later model years, shall be computed by use of the following formula: (The results of all emission tests shall be rounded, in accordance with ASTM E29-90 (incorporated by reference in §86.1), to the number of places to the right of the decimal point indicated by expressing the applicable standard to three significant figures.)

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Subpart I [Amended]

13. Section 86.884-14 is amended by revising the equation in paragraph (a) to read as follows:
(a) * * *

$$N_s = 100 \times (1 - (1 - N_m / 100)^{L_s / L_m})$$

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PART 90 CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES

14. The authority for part 90 continues to read as follows:

Authority: 42 U.S.C. 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a).

Subpart A [Amended]

15. Section 90.1 as proposed at 66 FR 51181 is amended by adding a new paragraph (f) to read as follows:

§90.1 Applicability.

* * * * *

(f) This part also applies to engines under 50 cc used in highway motorcycles if the manufacturer uses the provisions of 40 CFR 86.447-2006 to meet the emission standards in this part instead of the requirements of 40 CFR part 86. Compliance with the provisions of this part is a required condition of that exemption.

SUBCHAPTER U AIR POLLUTION CONTROLS

16. A new part 1045 is added to read as follows:

PART 1045 CONTROL OF EMISSIONS FROM SPARK-IGNITION MARINE VESSELS

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Subpart D [Reserved]

Subpart E Testing In-use Engines

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Subpart G Compliance Provisions

1045.601 What compliance provisions apply to these vessels?

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1045.701 General provisions.

1045.705 How do I average emission levels?

1045.710 How do I generate and bank emission credits?

1045.715 How do I trade or transfer emission credits?

1045.720 How do I calculate my average emission level or emission credits?

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1045.801 What definitions apply to this part?

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1045.810 What materials does this part reference?

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1045.820 How do I request a public hearing?

Authority: 42 U.S.C. 7401 - 7671(q).

Subpart A Determining How to Follow This Part

§1045.1 Does this part apply to me?

- (a) This part applies to you if you manufacture or import new spark-ignition marine vessels (defined in §1045.801) or part of a fuel system for such vessels (defined in §1045.801), unless we exclude the vessels under §1045.5. You should read §1045.145 to determine whether we require all manufacturers to meet a specific requirement.
- (b) See 40 CFR part 90 to meet exhaust-emission requirements for spark-ignition marine engines. Note that 40 CFR part 90 does not apply to all spark-ignition marine engines.
- (c) Note in subpart G of this part that 40 CFR part 1068 applies to everyone, including anyone who manufactures, owns, operates, or repairs any of the vessels this part covers.
- (d) You need not follow this part for vessels produced before the 2008 model year, unless you certify voluntarily. See §1045.105, §1045.145, and the definition of model year in §1045.801 for more information about the timing of new requirements.
- (e) See §§1045.801 and 1045.805 for definitions and acronyms that apply to this part.
- (f) For now, ignore references to engines, which will apply when we establish exhaust emission standards in this part for spark-ignition marine engines.

§1045.5 Are any of my vessels excluded from the requirements of this part?

- (a) The requirements of this part do not apply to either of two types of marine vessels:
 - (1) Hobby vessels.
 - (2) Vessels fueled with diesel fuel, LPG, natural gas, or other fuel that is not a volatile liquid fuel.
- (b) See part 1068, subpart C, of this chapter for exemptions of specific vessels.
- (c) We may require you to label a vessel if this section excludes it and other requirements in this chapter do not apply (for example, hobby vessels).
- (d) Send the Designated Officer a written request with supporting documentation if you want us to determine whether this part covers or excludes certain vessels. Excluding engines from this part's requirements does not affect other requirements that may apply to them.

§1045.10 What main steps must I take to comply with this part?

- (a) Every new vessel subject to the standards in this part must be covered by a certificate of conformity before it is sold, offered for sale, introduced into commerce, distributed or delivered for introduction into commerce, or imported into the United States. For evaporative emissions, either the vessel manufacturer or the fuel system manufacturer must apply for a certificate of conformity for each new model year.
- (b) To get a certificate of conformity and comply with its terms, you must do three things:
 - (1) Show that each vessel will meet one of the individual emission standards and other requirements in subpart B of this part. You may also need to meet a corporate-average emission standard (see §1045.105).
 - (2) Apply for certification (see subpart C of this part).
 - (3) Follow our instructions throughout this part.
- (c) Subpart F of this part and 40 CFR part 86 describe the procedures you must follow to test your vessels. Subpart

F of this part and §1045.20 describe cases for which you may test the fuel system alone instead of testing the entire vessel.

(d) Subpart G of this part and 40 CFR part 1068 of this chapter describe requirements and prohibitions that apply to manufacturers, owners, operators, repairers, and all others associated with spark-ignition marine vessels.

§1045.15 Do any other regulation parts affect me?

(a) Part 86 of this chapter describes how to measure evaporative emissions. Subpart F of this part describes how to apply part 86 of this chapter to show you meet this part's emission standards.

(b) Part 1068 of this chapter describes general provisions, including these seven areas:

- (1) Prohibited acts and penalties for manufacturers and others.
- (2) Rebuilding and other aftermarket changes.
- (3) Exemptions for certain vessels.
- (4) Importing vessels.
- (5) Selective enforcement audits of your production.
- (6) Defect reporting and recall.
- (7) Procedures for public hearing.

(c) Other parts of this chapter affect you if referenced in this part.

§1045.20 Can I certify just the fuel system instead of the entire vessel?

(a) You may certify only the fuel system if you manufacture part or all of the system for a vessel. Vessels using certified fuel systems do not need to be certified separately.

(b) If you certify a fuel system, you must do two things:

- (1) Use good engineering judgment to ensure the engine will comply with emission standards after it is installed in a vessel.
- (2) Comply with §1045.130.

(c) Do not use the provisions of this section to circumvent emission standards or other requirements of this part.

Subpart B Emission Standards and Related Requirements

§1045.105 What evaporative emission standards must my vessels meet?

Beginning January 1, 2008, each new vessel and new portable fuel tank must be certified to the emission standards of paragraphs (a) and (b) of this section (except as allowed by paragraph (c) of this section). Vessel manufacturers may certify vessels directly or use fuel systems certified by fuel-system manufacturers.

(a) Diurnal Emissions. Diurnal emissions from your vessel may not exceed 1.1 grams per gallon per day as measured according to the diurnal evaporative test procedures in subpart F of this part. You may use the averaging provisions in Subpart H of this part to show you meet the standards of paragraph (a) of this section. Emission standards described in this paragraph apply to marine vessels with installed fuel tanks; they do not apply to portable fuel tanks, which are addressed in paragraph (c) of this section.

(b) Permeation emissions. Permeation emissions may not exceed the following standards:

- (1) Permeation emissions from your vessel's fuel tank(s) may not exceed 0.08 grams per gallon per day as measured according to the tank permeation test procedures in subpart F of this part.
- (2) Permeation emissions from your vessel's fuel lines may not exceed 5 grams per square-meter per day as measured according to the fuel line permeation test procedures in subpart F of this part. Use the inside diameter of the hose to determine the surface area of the hose.

(c) You may certify portable fuel tanks to the diurnal emission standards in paragraph (a) of this section by meeting the following design criteria:

- (1) The tank may include no more than two vents, which must be readily sealable for pressures up to 3 psig.
- (2) All vents and the fuel-line connection to the engine must seal automatically when disconnected.

(d) You may certify vessels and fuel systems using the control technologies shown in the following tables "by

design." This means the design of these technologies certifies them to the standards specified in paragraph (a) of this section:

Table 1 of §1045.105 Diurnal Levels for Design Certification

If the diurnal control technology is...	Then you may design-certify with a diurnal emission level of . . .
1. Open-vented fuel tank	1.5 g/gal/test
2. A sealed fuel tank with a pressure-relief valve that would open at a pressure of 0.5 psi.	1.3 g/gal/test
3. A sealed insulated fuel tank (R-value of 15 or better) with a limited flow orifice with a maximum cross-sectional area defined by the following equation: Area in mm ² = 0.04 × fuel tank capacity in gallons. EXAMPLE: A 20 gallon tank with an orifice no more than 1.0 mm in diameter.	1.3 g/gal/test
4. A sealed fuel tank with a pressure-relief valve that would open at a pressure of 1.0 psi.	1.1 g/gal/test
5. A sealed fuel tank with a pressure-relief valve that would open at a pressure of 1.5 psi.	0.9 g/gal/test
6. A sealed fuel tank with a pressure-relief valve that would open at a pressure of 2.0 psi.	0.7 g/gal/test
7. A sealed fuel tank with a pressure-relief valve that would open at a pressure of 0.5 psi, and with a volume-compensating bag made from a low-permeability material ¹ with a bag volume equal to at least 25 percent of the volume of the fuel tank.	0.5 g/gal/test
8. A sealed bladder fuel tank made from a low-permeability material ^(a)	0.1 g/gal/test

¹ Permeability of 5 g/m²/day or less.

Table 2 of §1045.105 Tank Permeation Levels for Design Certification

If the tank permeability control technology is...	Then you may design-certify with a tank emission level of . . .
1. A metal fuel tank with no non-metal gaskets or with gaskets made from a low-permeability material ¹	0.08 g/gal/test-day
2. A metal fuel tank with non-metal gaskets with an exposed surface area of 1000 mm ² or less	0.08 g/gal/test-day

¹ Permeability of 10 g/m²/day or less.

Table 3 of §1045.105 Fuel and Vent-line Permeation Levels for Design Certification

If the fuel-line and vent-line permeability control technology is...	Then you may design-certify with a fuel line permeation emission level of ...
1. Hose meeting SAE 2260 Category 1 permeation level ¹	5 g/m ² /test-day
2. Reserved.	

¹ Hose must also meet U.S. Coast Guard Regulations

(e) We may establish additional design certification options based on test data.

§1045.115 What other requirements must my vessels meet?

(a) through (d) [Reserved]

(e) Prohibited controls. You may not do either of the following things:

(1) You may not design engines or vessels with an emission-control system that emits any noxious or toxic substance that the engine would not emit during operation in the absence of such a system, except as specifically permitted by regulation.

(2) You may not design engines or vessels with an emission-control system that is unsafe. For example, emission controls must comply with all applicable U.S. Coast Guard regulations.

(f) Defeat devices. You may not equip your vessels with a defeat device. A defeat device is an auxiliary emission-control device or other control feature that degrades emission controls under conditions you may reasonably expect the vessel to encounter during normal operation and use.

(g) Evaporative technology. Make sure (by testing or engineering analysis) that technologies used to meet evaporative emission standards keep working for at least 30 days while the boat or engine is not used. Design them to last for the full useful life. The useful life for evaporative controls is ten years.

(h) Fuel-tank location. The test procedures in subpart F of this part do not represent the experience of a vessel with the fuel tank exposed to direct sunlight (sun exposure can cause much greater fuel-temperature swings, which would increase evaporative emissions). If you design your vessel this way, you must show that you meet emission standards by measuring emissions with a test that incorporates the effect of the sun’s radiant heat. Note: This requirement does not apply to portable fuel tanks.

§1045.120 What warranty requirements apply to me?

(a) You must warrant to the ultimate buyer that the new vessel meets two conditions:

(1) You have designed, built, and equipped it to meet the requirements of this part.

(2) It is free from defects in materials and workmanship that may keep it from meeting these requirements.

(b) Your emission-related warranty for evaporative controls must be valid for at least 50 percent of the useful life in years. You may offer a warranty more generous than we require. This warranty may not be shorter than any published or negotiated warranty you offer for the vessel or any of its components.

§1045.125 What maintenance instructions must I give to buyers?

Give the ultimate buyer of each new vessel written instructions for properly maintaining and using the vessel, including the emission-control system.

§1045.130 What installation instructions must I give to vessel manufacturers?

(a) If you sell a certified fuel system for someone else to install in a spark-ignition marine vessel, give the buyer of the fuel system written instructions for installing it consistent with the requirements of this part. Make sure these instructions have the following information:

- (1) Include the heading: "Emission-related installation instructions."
 - (2) State: "Failing to follow these instructions when installing a certified fuel system in a spark-ignition marine vessel violates federal law (40 CFR 1068.105(b)), subject to fines or other penalties as described in the Clean Air Act."
 - (3) Describe any other instructions to make sure the installed fuel system will operate according to design specifications in your application for certification.
 - (4) State: "If you obscure the fuel system's emission label, you must attach a duplicate label to your vessel, as described in 40 CFR 1068.105."
- (b) You do not need installation instructions for fuel systems you install in your own vessel.

§1045.135 How must I label and identify the vessels and fuel systems I produce?

- (a) [Reserved]
- (b) At the time of manufacture, add a permanent label identifying each tank. To meet labeling requirements, do three things:
- (1) Attach the label in one piece so it is not removable without being destroyed or defaced.
 - (2) Design and produce it to be durable and readable for the vessel's entire life.
 - (3) Write it in block letters in English.
- (c) On your fuel tank label, do ten things:
- (1) Include the heading "EMISSION CONTROL INFORMATION."
 - (2) Include your full corporate name and trademark.
 - (3) State: "THIS VESSEL IS CERTIFIED TO OPERATE ON [specify operating fuel or fuels]."
 - (4) State the date of manufacture [DAY (optional), MONTH, and YEAR].
 - (5) State: "THIS VESSEL MEETS U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS FOR [MODEL YEAR] VESSELS."
 - (6) Include EPA's standardized designation for the emission family.
 - (7) Include the model number (or part number) of the fuel tank.
 - (8) Include the part number(s) of the fuel lines.
 - (8) Include the fuel tank capacity in U.S. gallons.
 - (9) Describe other information on proper maintenance and use.
 - (10) Identify any other emission standards to which you have certified the vessel.
- (d) You may combine the EPA emission control label with the label required by the U.S. Coast Guard. If you are unable to meet the exact labeling requirements described in paragraph (c) of this section for your combined label, you may ask us to modify the requirements consistent with the intent of this section.
- (e) Some vessels may not have enough space for a label with all the required information. In this case, we may allow you to omit some of the information required if you print it in the owner's manual instead.
- (f) If you are unable to meet these labeling requirements, you may ask us to modify them consistent with the intent of this section.
- (g) If you obscure the fuel-tank label while installing the tank in the vessel, you must place a duplicate label on the vessel. If someone else installs the fuel tank in a vessel, give them duplicate labels if they ask for them (see 40 CFR 1068.105).
- (h) Non-metallic fuel lines must be labeled with the name of the fuel line manufacturer and with a permeability classification.

§1045.140 What interim provisions apply only for a limited time?

From 2004 to 2007, if you certify to an FEL below the average standard in §1045.105(a), you may generate early credits. Calculate credits according to §1045.720(b) by replacing "Average Standard" with 1.1 g/gallon and "Emission Level" with the FEL to which the emission family is certified.

§1045.145 What provisions apply to non-certifying manufacturers?

- (a) General requirements. The following general requirements apply to non-certifying manufacturers:
- (1) Every manufacturer is responsible for compliance with the requirements of this part that apply to manufacturers. However, if one manufacturer complies with a requirement, then we will consider all manufacturers to have complied with that specific requirement.
 - (2) Where more than one entity meets the definition of manufacturer for a particular vessel and any one of the manufacturers obtains a certificate of conformity covering the whole vessel, the requirements of subparts C and H of this part and subparts E and F of part 1068 of this chapter apply to the manufacturer that holds the certificate of conformity. Other manufacturers must meet the requirements of subparts C and H of this part and subparts E and F of part 1068 of this chapter only if we say so. In this case, we will allow a reasonable time to meet the requirements that apply.
- (b) Requirements for permeability treatment. If you treat fuel tanks or fuel lines to reduce permeability but do not hold the certificate, you must keep records of the treatment process for three years after the treatment occurs. You must make these records available to us if we request them.
- (c) Requirements for fuel system or emission control components. If you manufacture a fuel system component or an emission control component or fuel lines used to reduce permeability but do not hold the certificate, we may require you to keep records of your manufacturing process for three years after the component is manufactured. You must make these records available to us if we request them.
- (d) Requirements for emission test data. If a certifying manufacturer uses your emission test data to certify, we may require you to give us a signed statement verifying that your tests were conducted using the test procedures in this part.

Subpart C Certifying Emission Families

§1045.201 What are the general requirements for submitting a certification application?

- (a) Send us an application for a certificate of conformity for each emission family. Each application is valid for only one model year.
- (b) The application must not include false or incomplete statements or information (see §1045.250). We may choose to ask you to send us less information than we specify in this subpart, but this would not change your recordkeeping requirements.
- (c) Use good engineering judgment for all decisions related to your application (see §1068.005 of this chapter).
- (d) An authorized representative of your company must approve and sign the application.

§1045.205 How must I prepare my application?

In your application, you must do all the following things:

- (a) Describe the emission family's specifications and other basic parameters of the design. List the types of fuel you intend to use to certify the emission family (for example, gasoline or methanol).
- (b) Explain how the emission-control system operates. Describe in detail all the system's components, auxiliary emission-control devices, and all fuel-system components you will install on any production or test system. Explain how you determined that the emission-control system comply with the requirements of §1045.115, including why any auxiliary emission-control devices are not defeat devices (see §1045.115(f)). Do not include detailed calibrations for components unless we ask for them.
- (c) Describe the vessels, engines, tanks, and/or hoses you selected for testing and the reasons for selecting them.
- (d) Describe any special or alternate test procedures you used (see §1045.501).
- (e) [Reserved]
- (f) List the specifications of the test fuel to show that it falls within the required ranges we specify in 40 CFR part 1065, subpart C.
- (g) Identify the emission family's useful life.
- (h) Propose maintenance and use instructions for the ultimate buyer (see §1045.125).

- (i) Propose emission-related installation instructions if you sell fuel systems for someone else to install in a vessel (see §1045.130).
- (j) Propose an emission-control label.
- (k) Present emission data for HC to show you meet the emission standards we specify in §1045.105.
- (l) Report all test results, including those from invalid tests or from any nonstandard tests.
- (m) [Reserved]
- (n) Describe all adjustable operating parameters.
- (o) If you conducted testing, state that you conducted your emission tests according to the specified procedures and test parameters using the fuels described in the application to show you meet the requirements of this part.
- (p) If you did not conduct testing, state how your emission family meets the requirements for design certification.
- (q) State unconditionally that all the vessels in the emission family comply with the requirements of this part, other referenced parts, and the Clean Air Act (42 U.S.C. 7401 et seq.).
- (r) Include estimates of vessel (or fuel system) production.
- (s) Add other information to help us evaluate your application if we ask for it.

§1045.215 What happens after I complete my application?

- (a) If any of the information in your application changes after you submit it, amend it as described in §1045.225.
- (b) We may decide that we cannot approve your application unless you revise it.
 - (1) If you inappropriately use the provisions of §1045.230(c) or (d) to define a broader or narrower emission family, we will require you to redefine your emission family.
 - (2) If your proposed label is inconsistent with §1045.135, we will require you to change it (and tell you how, if possible).
 - (3) If you require or recommend maintenance and use instructions inconsistent with §1045.125, we will require you to change them.
 - (4) If we find any other problem with your application, we will tell you how to correct it.
- (c) If we determine your application is complete and shows you meet all the requirements, we will issue a certificate of conformity for your emission family for that model year. If we deny the application, we will explain why in writing. You may then ask us to hold a hearing to reconsider our decision (see §1045.820).

§1045.225 How do I amend my application to include a new or modified product?

- (a) You must amend your application for certification before you take either of the following actions:
 - (1) Add a vessel, engine, or fuel system to a certificate of conformity.
 - (2) Make a design change for a certified emission family that may affect emissions or an emission-related part over the lifetime of the vessel, engine, or fuel system.
- (b) Send the Designated Officer a request to amend the application for certification for an emission family. In your request, do all of the following:
 - (1) Describe the model or configuration you are adding or changing.
 - (2) Include engineering evaluations or reasons why the original testing is or is not still appropriate.
 - (3) If the original testing for the emission family is not appropriate to show compliance for the new or modified vessel, include new test data showing that the new or modified product meets the requirements of this part.
- (c) You may start producing the new or modified product anytime after you send us your request.
- (d) You must give us test data within 30 days if we ask for more testing, or stop production if you are not able to do this.
- (e) If we determine that the certificate of conformity would not cover your new or modified product, we will send you a written explanation of our decision. In this case, you may no longer produce these vessels, engines, or fuel systems, though you may ask for a hearing for us to reconsider our decision (see §1045.820).

§1045.230 How do I select emission families?

- (a) Divide your product line into groups of vessels (or fuel systems) that you expect to have similar emission characteristics. These groups are called emission families.
- (b) You need a separate emission family for each model year.

§1045.235 How does testing fit with my application for a certificate of conformity?

This section describes how to do testing in your effort to apply for a certificate of conformity.

- (a) Test your vessels using the procedures and equipment specified in subpart F of this part.
 - (1) For evaporative testing, you may test the fuel system without the vessel.
 - (2) For exhaust testing, test the engine without the vessel.
- (b) Select from each emission family a test vessel for each fuel type with a configuration you believe is most likely to exceed an applicable standard (e.g., the diurnal evaporative standard). Using good engineering judgment, consider the emission levels of all regulated constituents over the full useful life of the vessel.
- (c) You may submit emission data for equivalent emission families from previous years instead of doing new tests, but only if the data shows that the test vessel would meet all the requirements for the latest models. We may require you to do new emission testing if we believe the latest models could be substantially different from the previously tested vessel.
- (d) We may choose to measure emissions from any of your test vessels.
 - (1) If we do this, you must provide the test vessel at the location we select. We may decide to do the testing at your plant or any other facility. If we choose to do the testing at your plant, you must schedule it as soon as possible and make available the instruments and equipment we need. This provision does not apply for evaporative emission testing for manufacturers that use the design certification provisions for all of the products under §1045.105(d).
 - (2) If we measure emissions on one of your test vessels, the results of that testing become the official data for the vessel. Unless we later invalidate this data, we may decide not to consider your data in determining if your emission family meets the emission standards.
- (e) We may allow you to certify vessels using existing data from vessels with similarly-designed fuel systems that you did not manufacture. In those cases, you are not required to emission-test your vessels or fuel systems.
- (f) For fuel tanks that are design-certified based on permeability treatments for plastic fuel tanks, you do not need to test each emission family. However, you must use good engineering judgment to determine permeation rates for the tanks. Good engineering judgment requires that at least one fuel tank be tested for each set of treatment conditions. For example, if you treat tanks made from the same material using the identical treatment process, but that are in different emission families, then you would only need to test one tank.

§1045.240 How do I determine if my emission family complies with emission standards?

- (a) Your emission family complies with the applicable numerical emission standards in §1045.105 if all emission-data vessels representing that family have test results showing emission levels at or below all applicable standards, provided you also comply with the average emission standard for your total production.
- (b) Your emission family does not comply if any emission-data vessel representing that family has test results showing emission levels above the applicable standards from §1045.105.
- (c) If your average emission level is above an applicable standard, then all of emission families with emission levels above the average standard are noncompliant.

§1045.245 What records must I keep and make available to EPA?

- (a) Organize and maintain the following records to keep them readily available; we may review these records at any time:
 - (1) A copy of all applications and any summary information you sent us.
 - (2) Any of the information we specify in §1045.205 that you did not include in your application.
 - (3) A detailed history of each emission-data vessel. In each history, describe the test vessel's construction, including its origin and buildup, steps you took to ensure that it represents production vessels, any components you built specially for it, and all emission-related components.

- (b) Keep data from routine emission tests for one year after we issue the associated certificate of conformity. Keep all other information specified in paragraph (a) of this section for eight years after we issue your certificate.
- (c) Store these records in any format and on any media, as long as you can promptly send us organized, written records in English if we ask for them.
- (d) Send us copies of any vessel maintenance instructions or explanations if we ask for them.

§1045.250 When may EPA deny, revoke, or void my certificate of conformity?

- (a) We may deny your application for certification if your emission-data vessels fail to comply with emission standards or other requirements. Our decision may be based on any information available to us. If we deny your application, we will explain why in writing.
- (b) In addition, we may deny your application or revoke your certificate if you do any of the following:
 - (1) Refuse to comply with any testing or reporting requirements.
 - (2) Submit false or incomplete information (paragraph (d) of this section applies if this is fraudulent).
 - (3) Render inaccurate any test data.
 - (4) Deny us from completing authorized activities despite our presenting a warrant or court order (see §1068.020 of this chapter).
 - (5) Produce vessels for importation into the United States at a location where local law prohibits us from carrying out authorized activities.
- (c) We may void your certificate if you do not keep the records we require or do not give us information when we ask for it.
- (d) We may void your certificate if we find that you committed fraud to get it. This means intentionally submitting false or incomplete information.
- (e) If we deny your application or revoke or void your certificate, you may ask for a hearing (see §1045.820). Any such hearing will be limited to substantial and factual issues.

Subpart D [Reserved]

Subpart E Testing In-use Engines

§1045.401 What provisions apply for in-use testing of vessels?

We may conduct in-use testing of any vessel (or part of a vessel) subject to the standards of this part. If we determine that a substantial number of vessels do not comply with the regulations of this part, we may order the manufacturer to conduct a recall as specified in 40 CFR part 1068.

Subpart F Test Procedures

§1045.501 What equipment and general procedures must I use to test my vessels?

- (a) Diurnal testing. Use the equipment specified in 40 CFR part 86 subpart B (i.e., the procedures used to measure diurnal evaporative emissions for gasoline-fueled highway vehicles). Use the procedures specified in §1045.505 to measure diurnal emissions.
 - (1) These provisions require placing your vessel or fuel system within a sealed, temperature-controlled enclosure called a SHED (Sealed Housing for Evaporative Determination).
 - (2) You must include a fan to maintain a minimum wind speed of 5 miles per hour across the tank.
- (b) Permeation testing. Use the following equipment and procedures for measuring permeation emissions:
 - (1) For fuel tank permeation, see §1045.506.

(2) For fuel line permeation, see SAE J1527 (incorporated by reference in §1045.810). Alternatively, you may use the equipment and procedures specified in SAE J1737 (incorporated by reference in §1045.810), except that all tests must be conducted at $23^{\circ}\text{C} \pm 2^{\circ}\text{C}$.

(c) Special or alternate procedures. You may use special or alternate procedures, as described in §1065.010 of this chapter.

§1045.505 How do I test for diurnal evaporative emissions?

Measure evaporative emissions by placing the preconditioned vessel or fuel system within a sealed, temperature-controlled SHED and recording the concentration of fuel vapors within the SHED as the temperature cycles between 22.2°C and 35.6°C .

- (a) Preconditioning and test preparation. To prepare your vessel or fuel system, follow these six steps:
- (1) To precondition the tank, fill it to its nominal capacity and allow it to soak at $30^{\circ}\text{C} \pm 5^{\circ}\text{C}$ for one month. Note: You may omit this step; however, if you omit this step, you may not correct measured emissions for permeation that occurs during the test.
 - (2) Determine the tank's fuel capacity in gallons as configured in the vessel (using at least three significant figures).
 - (3) Fill the fuel tank with the test fuel to its capacity. If you fill the tank within the SHED, do not spill any fuel.
 - (4) Allow the tank and its contents to equilibrate to $22.2^{\circ}\text{C} \pm 1^{\circ}\text{C}$ within the SHED.
 - (5) Connect a fuel siphon to the tank outlet and drain 60 percent of the fuel. You may vent the tank before draining it. Do not spill any fuel.
 - (6) Close the SHED and set the temperature control to 22.2°F . Allow the SHED to equilibrate for two hours.
 - (7) If the fuel tank vent will have an attached vent hose when installed in the vessel, attach a vent hose representative of the shortest length of vent hose that will be used when the tank is installed in the vessel. You may attach the hose at any time before you start the test run (§1045.505(b)).
- (b) Test run. To measure emissions from your vessel or fuel system, follow these six steps:
- (1) Ensure that the measured temperature within the SHED is $22.2 \pm 0.2^{\circ}\text{C}$.
 - (2) Ventilate the SHED.
 - (3) Seal the SHED and record the hydrocarbon concentration within the SHED. This is the zero-hour value.
 - (4) Begin the temperature cycle in Table 1 of §1045.505. Run the temperature cycle three times.
 - (5) Record the hydrocarbon concentration at the end of each temperature cycle.
 - (6) Use the calculation procedures of 40 CFR 86.143-96 to calculate the mass emissions for each of the three 24-hour temperature cycles. The highest of these three is the official test result. If you precondition the tank as specified in §1045.505(a)(1), you may correct these results by subtracting the permeation emissions from the total, consistent with good engineering judgment.

Table 1 of §1045.505
24-hour Temperature Cycle for Emission Testing

Time (hours)	Temperature (°C)
0	22.2
1	22.5
2	23.6
3	26.6
4	29.5
5	31.8
6	34.0
7	34.8
8	35.5
9	35.6
10	35.3
11	34.4
12	33.5
13	31.8
14	30.0
15	28.6
16	27.1
17	26.1
18	25.0
19	24.3
20	23.7
21	23.3
22	22.8
23	22.5
24	22.2

§1045.506 How do I test my fuel tank for permeation emissions?

Measure permeation emissions by weighing a sealed fuel tank before and after a temperature-controlled soak.

- (a) Preconditioning. To precondition your fuel tank, follow these six steps:
- (1) Fill the tank and allow it to soak at $30^{\circ}\text{C} \pm 10^{\circ}\text{C}$ for 60 days.
 - (2) Determine the tank's fuel capacity as configured in the vessel to the nearest tenth of a gallon.
 - (3) Fill the fuel tank with the test fuel to its capacity. If you fill the tank within the SHED, do not spill any fuel.
 - (4) Allow the tank and its contents to equilibrate to $40^{\circ}\text{C} \pm 2^{\circ}\text{C}$.
 - (5) Seal the fuel tank using nonpermeable fittings, such as metal or Teflon .
- (b) Test run. To measure emissions from your fuel tank, follow these nine steps:
- (1) Weigh the sealed fuel tank, and record the weight to the nearest 0.1 grams. (You may use less precise weights, provided that the difference in mass from the start of the test to the end of the test has at least three significant figures.)
 - (2) Carefully place the tank within the temperature-controlled container or SHED. Do not spill any fuel.

- (3) Close the container or SHED and record the time.
- (4) Ensure that the measured temperature within the container or SHED is 40°C ±2° C.
- (5) Leave the tank in the container or SHED for 10 to 30 days, consistent with good engineering judgment (based on the expected permeation rate).
- (6) Hold the temperature of the container or SHED to 40°C ±2° C and record at least daily.
- (7) At the end of the soak period, weigh the sealed fuel tank and record the weight to the nearest 0.1 grams. (You may use less precise weights, provided that the difference in mass from the start of the test to the end of the test has at least three significant figures.)
- (8) Subtract the weight of the tank at the end of the test from the weight of the tank at the beginning of the test, and divide the difference by the capacity of the fuel tank. Divide this gram/gallon value by the number of test days to calculate the gram/gallon/test-day emission rate. Example: If a 20.4-gallon tank weighed 31782.3 grams at the beginning of the test, weighed 31760.2 grams after soaking for 25.03 days, then the gram/gallon/test-day emission rate would be:

$$(31882.3 \text{ g} - 31760.2 \text{ g}) / 20.4 \text{ gal} / 25.03 \text{ test-days} = 0.239 \text{ g/gal/test-day}$$
- (9) Round your result to the same number of decimal places as the standard.

Subpart G Compliance Provisions

§1045.601 What compliance provisions apply to these vessels?

Vessel manufacturers, as well as owners, operators, and rebuilders of these vessels, and all other persons, must observe the requirements and prohibitions in part 1068 of this chapter.

Subpart H Averaging, Banking, and Trading for Certification

§1045.701 General provisions.

- (a) You may average, bank, and trade emission credits for certification as described in this subpart to meet the average standards of this part. You must comply with the averaging requirements if you certify with an emission level higher than the applicable average standard. Participation in banking and trading is voluntary. Note: Some standards, such as the tank permeation standard, do not allow you to comply on average.
- (b) The definitions of Subpart I of this part apply to this subpart. The following definitions also apply:
 - (1) Average standard means the standard that applies on average to all your vessels, engines, or fuel systems that are subject to this part (except portable fuel tanks).
 - (2) Broker means any entity that facilitates a trade between a buyer and seller.
 - (3) Buyer means the entity that receives credits as a result of trade or transfer.
 - (4) FEL means the family emission limit to which an emission family is certified
 - (5) Group means a group of vessels having the same evaporative control technology, model year, and fuel-tank capacity.
 - (6) Reserved credits means credits generated but not yet verified by EPA in the end of year report review.
 - (7) Seller means the entity that provides credits during a trade or transfer.
 - (8) Transfer means to convey control of credits an individual tank generates
 - (i) From a certifying tank manufacturer to a vessel manufacturer that buys the tank; or
 - (ii) To a certifying tank manufacturer from a vessel manufacturer that buys the tank.
- (d) Do not include any exported vessel, engine, or tank in the certification averaging, banking, and trading program. Include only vessels, engines, or fuel tanks certified under this part.

§1045.705 How do I average emission levels?

- (a) As specified in subpart B of this part, certify each emission family that you are including the averaging program to an FEL.
- (b) Calculate a preliminary average emission level according to §1045.720 using projected production volumes for your application for certification.
- (c) After the end of your model year, calculate a final average emission level according to §1045.720 using actual production volumes.
- (d) If your preliminary average emission level is below the allowable average standard, see §1045.710 for information about generating and banking emission credits. These credits will be considered reserved until verified by EPA during the end of year report review.

§1045.710 How do I generate and bank emission credits?

- (a) If your average emission level is below the average standard, you may calculate credits according to §1045.720.
- (b) You may generate credits if you are a certifying manufacturer. You may hold them if you are a fuel tank or vessel manufacturer
- (c) You may bank unused emission credits, but only after the end of the calendar year and after we have reviewed your end-of-year reports.
- (d) During the calendar year and before you send in your end-of-year report, you may consider reserved any credits you originally designate for banking during certification. You may redesignate these credits for trading or transfer in your end-of-year report, but they are not valid to demonstrate compliance until verified.
- (e) You may use for averaging or trading any credits you declared for banking from the previous calendar year that we have not reviewed. But, we may revoke these credits later following our review of your end-of-year report or audit actions. For example, this could occur if we find that credits are based on erroneous calculations; or that emission levels are misrepresented, unsubstantiated, or derived incorrectly in the certification process.

§1045.715 How do I trade or transfer emission credits?

- (a) You may trade only banked credits, not reserved credits.
- (b) Whether or not you hold a certificate, you may transfer unbanked credits to a manufacturer that is supplying a fuel tank to you or a vessel manufacturer that is buying a fuel tank from you.
- (c) How you handle unused transferred credits at the end of a model year depends on whether or not you hold a certificate.
 - (1) If you hold a certificate, you may bank these credits.
 - (2) If you do not hold a certificate, you may not bank these credits; you may only transfer them to a certificate holder.
- (d) If a negative credit balance results from a credit trade or transfer, both buyers and sellers are liable, except in cases involving fraud. We may void the certificates of all emission families participating in a negative trade.
 - (1) If you buy credits but have not caused the negative credit balance, you must only supply more credits equivalent to the amount of invalid credits you used.
 - (2) If you caused the credit shortfall, you may be subject to the requirements of §1045.730(b)(7).

§1045.720 How do I calculate my average emission level or emission credits?

- (a) Calculate your average emission level for each model year according to the following equation and round it to the nearest tenth of a gram per gallon. Use consistent units throughout the calculation.
 - (1) Calculate the average emission level as:

$$\text{Emission level} = \frac{\sum_i (\text{FEL})_i \times (\text{Capacity})_i \times (\text{Production})_i}{\sum_i (\text{Production})_i \times (\text{Capacity})_i}$$

Where:

FEL_i = The FEL to which the engine family is certified.

Capacity_i = The capacity of the fuel tanks.

Production_i = The number of fuel tanks produced in that model year with a capacity of Capacity_i.

- (2) Sum the emissions for each unique combination of emission family and fuel tank capacity.
 - (3) Use production projections for initial certification, and actual production volumes to determine compliance at the end of the model year.
- (b) If your average emission level is below the average standard, calculate credits available for banking according to the following equation and round them to the nearest tenth of a gram:

$$\text{Credit} = \left[(\text{Average standard} - \text{Emission level}) \right] \times \left[\sum_i (\text{Production})_i \times (\text{Capacity})_i \right]$$

- (c) If your average emission level is above the average standard, calculate your preliminary credit deficit according to the following equation, rounding to the nearest tenth of a gram:

$$\text{Deficit} = \left[(\text{Emission level} - \text{Average standard}) \right] \times \left[\sum_i (\text{Production})_i \times (\text{Capacity})_i \right]$$

§1045.725 What information must I keep?

- (a) Maintain and keep five types of properly organized and indexed records for each group and for each emission family:

- (1) Model year and EPA emission family.
- (2) Bin standard.
- (3) Fuel tank capacity.
- (4) Projected production volume for the model year.
- (5) Actual production volume for the model year.

- (b) Keep paper records of this information for three years from the due date for the end-of-year report. You may use any additional storage formats or media if you like.

- (c) Follow §1045.730 to send us the information you must keep.

- (d) We may ask you to keep or send other information necessary to implement this subpart.

§1045.730 What information must I report?

- (a) Include the following information in your applications for certification:

- (1) A statement that, to the best of your belief, you will not have a negative credit balance when all credits are calculated. This means that if you believe that your average emission level will be above the standard (i.e., that you will have a deficit for the model year), you must have banked credits (or project to have traded credits) to offset the deficit.
- (2) Detailed calculations of projected emission credits (zero, positive, or negative) based on production projections.
 - (i) If you project a credit deficit, state the source of credits needed to offset the credit deficit.
 - (ii) If you project credits, state whether you will reserve them for banking or transfer them.

- (b) At the end of each model year, send an end-of-year report.

- (1) Make sure your report includes three things:
 - (i) Calculate in detail your average emission level and any emission credits (zero, positive, or negative) based on actual production volumes.
 - (ii) If your average emission level is above the allowable average standard, state the source of credits needed to offset the credit deficit.
 - (iii) If your average emission level is below the allowable average standard, state whether you will reserve the credits for banking or transfer them.

- (2) Base your production volumes on the point of first retail sale. This point is called the final product-purchase location.

- (3) Send end-of-year reports to the Designated Officer within 120 days of the end of the model year. If you send reports later, you are violating the Clean Air Act.

- (4) If you generate credits for banking and you do not send your end-of-year reports within 120 days after the end of the model year, you may not use or trade the credits until we receive and review your reports.

You may not use projected credits pending our review.

(5) You may correct errors discovered in your end-of-year report, including errors in calculating credits according to the following table:

If...	And if...	Then we...
(i) Our review discovers an error in your end-of-year report that increases your credit balance	the discovery occurs within 180 days of receipt	restore the credits for your use.
(ii) You discover an error in your report that increases your credit balance	the discovery occurs within 180 days of receipt	restore the credits for your use.
(iii) We or you discover an error in your report that increases your credit balance	the discovery occurs more than 180 days after receipt	do not restore the credits for your use.
(iv) We discover an error in your report that reduces your credit balance	at any time after receipt	reduce your credit balance

(6) If our review of a your end-of year-report shows a negative balance, you may buy credits to bring your credit balance to zero. But you must buy 1.1 credits for each 1.0 credit needed. If enough credits are not available to bring your credit balance to zero, we may void the certificates for all families certified to standards above the allowable average.

(c) Within 90 days of any credit trade or transfer, you must send the Designated Officer a report of the trade or transfer that includes three types of information:

(1) The corporate names of the buyer, seller, and any brokers.

(2) Information about the credits that depends on whether you trade or transfer them.

(i) For trades, describe the banked credits being traded.

(ii) For transfers, calculate the credits in detail and identify the source or use of the credits.

(3) Copies of contracts related to credit trading or transfer from the buyer, seller, and broker, as applicable.

(d) Include in each report a statement certifying the accuracy and authenticity of its contents.

(e) We may void a certificate of conformity for any emission family if you do not keep the records this section requires or give us the information when we ask for it.

Subpart I Definitions and Other Reference Information

§1045.801 What definitions apply to this part?

The definitions in this section apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the Act gives to them. The definitions follow:

Act means the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq.

Adjustable parameter means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if adjusted, may affect emissions or vessel performance during emission testing or normal in-use operation.

Aftertreatment means relating to any system, component, or technology mounted downstream of the exhaust valve or exhaust port whose design function is to reduce exhaust emissions.

Auxiliary emission-control device means any element of design that senses temperature, engine rpm, boat

speed, transmission gear, atmospheric pressure, manifold pressure or vacuum, or any other parameter to activate, modulate, delay, or deactivate the operation of any part of the emission-control system. This also includes any other feature that causes in-use emissions to be higher than those measured under test conditions, except as we allow under this part.

Broker means any entity that facilitates a trade of emission credits between a buyer and seller.

Calibration means the set of specifications and tolerances specific to a particular design, version, or application of a component or assembly capable of functionally describing its operation over its working range.

Capacity means the maximum volume of liquid fuel that a fuel tank can hold when installed in a vessel.

Certification means obtaining a certificate of conformity for an emission family that complies with the emission standards and requirements in this part.

Compression-ignition means relating to a type of reciprocating, internal-combustion vessel that is not a spark-ignition vessel.

Crankcase emissions means airborne substances emitted to the atmosphere from any part of the vessel crankcase's ventilation or lubrication systems. The crankcase is the housing for the crankshaft and other related internal parts.

Designated Officer means the Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

Emission-control system means any device, system, or element of design that controls or reduces the regulated emissions from an vessel.

Emission-data vessel means an vessel, engine, or fuel system that is tested for certification.

Emission family means a group of vessels, engines or fuel systems with similar emission characteristics, as specified in §1045.230.

Emission-related maintenance means maintenance that substantially affects emissions or is likely to substantially affect emissions deterioration.

Fuel system means any or all of the components involved in transporting, metering, and mixing the fuel from the fuel tank to the combustion chamber(s), including the fuel tank, fuel tank cap, fuel pump, fuel filters, fuel lines, carburetor or fuel-injection components, and all fuel-system vents.

Good engineering judgment has the meaning we give it in §1068.005 of this chapter.

Hobby vessel means a recreational vessel that is a reduced-scale model vessel that is not capable of transporting a person.

Hydrocarbon (HC) means the hydrocarbon group on which the emission standards are based for each fuel type. For gasoline- and LPG-fueled vessels, HC means total hydrocarbon (THC). For natural gas-fueled vessels, HC means nonmethane hydrocarbon (NMHC). For alcohol-fueled vessels, HC means total hydrocarbon equivalent (THCE).

Identification number means a unique specification (for example, model number/serial number combination) that allows someone to distinguish a particular vessel from other similar vessels.

Manufacturer has the meaning given in section 216(1) of the Act. In general, this term includes any person who manufactures a vessel, engine, or fuel system component for sale in the United States or otherwise introduces a new vessel, engine, or fuel system component into commerce in the United States. This includes importers and entities that treat fuel system components to reduce permeability.

Maximum test power means the power output observed with the maximum fueling rate possible at the maximum test speed.

Maximum test speed means the speed specified by 40 CFR 1065.515.

Model year means one of the following things:

- (1) For freshly manufactured vessels (see definition of "new vessel," paragraph (1)), model year means one of the following:
 - (i) Calendar year.
 - (ii) Your annual new model production period if it is different than the calendar year. This must include January 1 of the calendar year for which the model year is named. It may not begin before January 2 of the previous calendar year and it must end by December 31 of the named calendar year.
- (2) For an vessel modified by an importer (not the original vessel manufacturer) who has a certificate of

conformity for the imported vessel (see definition of "new vessel," paragraph (2)), model year means one of the following:

- (i) The calendar year in which the importer finishes modifying and labeling the vessel.
 - (ii) Your annual production period for producing vessels if it is different than the calendar year; follow the guidelines in paragraph (1)(ii) of this definition.
- (3) For an vessel you import that does not meet the criteria in paragraphs (1) or (2) of the definition of "new vessel," model year means the calendar year in which the manufacturer completed the original assembly of the vessel. In general, this applies to used vessels that you import without conversion or major modification.

New vessel means any of the following things:

- (1) A freshly manufactured vessel for which the ultimate buyer has never received the equitable or legal title. The vessel is no longer new when the ultimate buyer receives this title or the product is placed into service, whichever comes first.
- (2) An imported vessel covered by a certificate of conformity issued under this part, where someone other than the original manufacturer modifies the vessel after its initial assembly and holds the certificate. The vessel is no longer new when it is placed into service.
- (3) An imported nonroad vessel that is not covered by a certificate of conformity issued under this part at the time of importation.

Noncompliant vessel means a vessel, engine, or fuel system that was originally covered by a certificate of conformity, but is not in the certified configuration or otherwise does not comply with the conditions of the certificate.

Nonconforming vessel means an vessel, engine, or fuel system not covered by a certificate of conformity that would otherwise be subject to emission standards.

Nonroad means relating to nonroad engines or nonroad vehicles.

Nonroad engine has the meaning given in §1068.025 of this chapter.

Oxides of nitrogen means nitric oxide (NO) and nitrogen dioxide (NO₂). Oxides of nitrogen are expressed quantitatively as if the NO were in the form of NO₂ (assume a molecular weight for oxides of nitrogen equivalent to that of NO₂).

Physically adjustable range means the entire range over which an vessel parameter can be adjusted, except as modified by §1045.115(c).

Placed into service means used for its intended purpose.

Portable fuel tank means a fuel tank that has a permanently affixed handle, has a fuel capacity no greater than 12 gallons, and is not permanently mounted to a marine vessel.

Propulsion marine engine means a marine engine that moves a vessel through the water or directs the vessel's movement.

Revoke means to discontinue the certificate for an emission family. If we revoke a certificate, you must apply for a new certificate before continuing to produce the affected vessels. This does not apply to vessels you no longer possess.

Round means to round numbers according to ASTM E29-93a, which is incorporated by reference (see §1045.810), unless otherwise specified.

Scheduled maintenance means adjusting, repairing, removing, disassembling, cleaning, or replacing components or systems that is periodically needed to keep a part from failing or malfunctioning. It also may mean actions you expect are necessary to correct an overt indication of failure or malfunction for which periodic maintenance is not appropriate.

Spark-ignition means relating to a type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark-ignition engines usually use a throttle to regulate intake air flow to control power during normal operation.

Spark-ignition marine vessel means marine vessel that is powered by a spark-ignition engine.

Stoichiometry means the proportion of a mixture of air and fuel such that the fuel is fully oxidized with no remaining oxygen. For example, stoichiometric combustion in gasoline vessels typically occurs at an air-fuel mass ratio of about 14.7.

Suspend means to temporarily discontinue the certificate for an emission family. If we suspend a

certificate, you may not sell vessels from that emission family unless we reinstate the certificate or approve a new one.

Test sample means the collection of vessels selected from the population of an emission family for emission testing.

Test vessel means a vessel, engine, or fuel system in a test sample.

Total Hydrocarbon Equivalent means the sum of the carbon mass contributions of non-oxygenated hydrocarbons, alcohols and aldehydes, or other organic compounds that are measured separately as contained in a gas sample, expressed as petroleum-fueled vessel hydrocarbons. The hydrogen-to-carbon ratio of the equivalent hydrocarbon is 1.85:1.

Ultimate buyer means ultimate purchaser.

Ultimate purchaser means, with respect to any new nonroad equipment or new nonroad vessel, the first person who in good faith purchases such new nonroad equipment or new nonroad vessel for purposes other than resale.

United States means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, and the Trust Territory of the Pacific Islands.

U.S.-directed production volume means the number of vessel units, subject to the requirements of this part, produced by a manufacturer for which the manufacturer has a reasonable assurance that sale was or will be made to ultimate buyers in the United States.

Useful life means the period during which the vessel or engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years. It is the period during which a new vessel or new engine is required to comply with all applicable emission standards.

Vessel means marine vessel as defined in the General Provisions of the United States Code, 1 U.S.C. 3.

Void means to invalidate a certificate or an exemption. If we void a certificate, all the vessels produced under that emission family for that model year are considered noncompliant, and you are liable for each vessel produced under the certificate and may face civil or criminal penalties or both. If we void an exemption, all the vessels produced under that exemption are considered uncertified (or nonconforming), and you are liable for each vessel produced under the exemption and may face civil or criminal penalties or both. You may not produce any additional vessels using the voided exemption.

Volatile liquid fuel means any fuel other than diesel or biodiesel that is a liquid at atmospheric pressure.

§1045.805 What symbols, acronyms, and abbreviations does this part use?

The following symbols, acronyms, and abbreviations apply to this part:

° C	degrees Celsius.
ASTM	American Society for Testing and Materials.
ATV	all-terrain vessel.
cc	cubic centimeters.
CO	carbon monoxide.
CO ₂	carbon dioxide.
EPA	Environmental Protection Agency.
FEL	Family emission limit
g/kW-hr	grams per kilowatt-hour.
LPG	liquefied petroleum gas.
m	meters.
mm Hg	millimeters of mercury.
NMHC	nonmethane hydrocarbon.
NMHCE	nonmethane hydrocarbon equivalent.
NO _x	oxides of nitrogen (NO and NO ₂).
psig	pounds per square inch of gauge pressure.
rpm	revolutions per minute.

SAE	Society of Automotive Engineers.
SI	spark-ignition.
SHED	Sealed Housing for Evaporative Determination
THC	total hydrocarbon.
THCE	total hydrocarbon equivalent.
U.S.	United States
U.S.C.	United States Code.

§1045.810 What materials does this part reference?

We have incorporated by reference the documents listed in this section. The Director of the Federal Register approved the incorporation by reference as prescribed in 5 U.S.C. 552(a) and 1 CFR part 51. Anyone may inspect copies at U.S. EPA, OAR, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460; or Office of the Federal Register, 800 N. Capitol St., NW, 7th Floor, Suite 700, Washington, DC.

(a) ASTM material. Table 1 of §1045.810 lists material from the American Society for Testing and Materials that we have incorporated by reference. The first column lists the number and name of the material. The second column lists the sections of this part where we reference it. The second column is for information only and may not include all locations. Anyone may receive copies of these materials from American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103. Table 1 follows:

Table 1 of §1045.810 ASTM Materials

Document number and name	part 1045 reference
ASTM E29-93a,	1045.240,
Standard Practice for Using	1045.315,
Significant Digits in Test Data to	1045.345,
Determine Conformance with	1045.410,
Specifications.	1045.415

- (b) ISO material. [Reserved]
- (c) SAE material. [Reserved]

§1045.815 How should I request EPA to keep my information confidential?

- (a) Clearly show what you consider confidential by marking, circling, bracketing, stamping, or some other method. We will store your confidential information as described in 40 CFR part 2. Also, we will disclose it only as specified in 40 CFR part 2.
- (b) If you send us a second copy without the confidential information, we will assume it contains nothing confidential whenever we need to release information from it.
- (c) If you send us information without claiming it is confidential, we may make it available to the public without further notice to you, as described in §2.204 of this chapter.

§1045.820 How do I request a public hearing?

- (a) File a request for a hearing with the Designated Officer within 15 days of a decision to deny, suspend, revoke, or void your certificate. If you ask later, we may give you a hearing for good cause, but we do not have to.
- (b) Include the following in your request for a public hearing:
 - (1) State which emission family is involved.
 - (2) State the issues you intend to raise. We may limit these issues, as described elsewhere in this part.
 - (3) Summarize the evidence supporting your position and state why you believe this evidence justifies granting or reinstating the certificate.
- (c) We will hold the hearing as described in 40 CFR part 1068, subpart F.

PART 1051 CONTROL OF EMISSIONS FROM RECREATIONAL ENGINES AND VEHICLES

17. The authority citation for part 1051 as proposed at 66 FR 51219 continues to read as follows:
Authority: 42 U.S.C. 7401 - 7671(q).

Subpart A [Amended]

18. Section 1051.1 as proposed at 66 FR 51220 is amended by adding a new paragraph (e) to read as follows:

§1051.1 Does this part apply to me?

* * * * *

(e) This part also applies to engines under 50 cc used in highway motorcycles if the manufacturer uses the provisions of 40 CFR 86.447-2006 to meet the emission standards in this part instead of the requirements of 40 CFR part 86. Compliance with the provisions of this part is a required condition of that exemption.

PART 1068 GENERAL COMPLIANCE PROVISIONS FOR NONROAD PROGRAMS

19. The authority citation for the part 1068 as proposed at 66 FR 21252 continues to read as follows:
Authority: 42 U.S.C. 7401 - 7671(q).

Subpart A [Amended]

20. Section 1068.1 as proposed at 66 FR 51253 is amended by revising paragraph (a) to read as follows:

§1068.1 Does this part apply to me?

(a) The provisions of this part apply to everyone with respect to the following engines or to equipment using the following engines:

- (1) Marine vessels powered by spark-ignition engines we regulate under 40 CFR 1045
- (2) Large nonroad spark-ignition engines we regulate under 40 CFR part 1048.
- (3) Snowmobiles, all-terrain vehicles, and off-highway motorcycles we regulate under 40 CFR part 1051.

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